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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,036	12/27/2005	Hidehiro Uchiumi	740675-61	5999
22204	7590	05/31/2007		
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER MULLINS, BURTON S	
			ART UNIT 2834	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,036

Applicant(s)

UCHIUMI ET AL.

Examiner

Burton S. Mullins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the restriction requirement in the reply filed on 23 February 2007 is acknowledged. Claims 1-28 are canceled, claims 35-40 added. Claims 29-40 are pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

3. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e). Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Information Disclosure Statement

4. The information disclosure statements submitted on 12 October 2005, 21 June 2006 and 28 November 2006 have been partially considered by the examiner. It is noted that one reference on the 28 November 2006 IDS has not been considered because it is the incorrect patent number and/or irrelevant to vibration motors. Further, copies and English abstracts of the cited Japanese patents were not submitted with the 21 June 2006 IDS. The examiner has found and considered some of these references but not all were readily available on the PTO database

and therefore applicant is requested to supply copies of the remaining references for later consideration.

Drawings

5. Figures 13a-13c & 14a-14b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: Reference to specific claims (e.g., specification [0012] through [0048]) should be removed since the claim numbering and/or content may change during prosecution. In [0061] change "conventinal" to --conventional--. Further, reference numbers are lacking for numerous claimed elements (see paragraph 8 below) and the words used for elements in the claims are different from those used in the specification. For instance, the "end cap" of claim 32 presumably refers to the "terminal blade mount" 5 of the specification. The term "end cap" is significantly different from "terminal blade mount" and implies a different structure. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 30-33 and 36-39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter of claims 30 lacks support in the specification. The specification fails to adequately describe, inter alia, positioning of the pair of attachment faces/rails closer to the weight than a center of gravity of the motor (claims 30 and 36); a center point of a line crossing two points and a point where the diametrical line of the circular orbit, etc. (claims 31 and 37); or attaching means having a pair of legs straddling said motor case in its thickness direction, a leg connecting part connecting said pair of legs on said motor case, and feet formed at the bottom of said legs, and said attachment faces are the back surfaces of said feet (claims 32 and 38).

9. Claims 30, 32, 38 and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 30, recitation “parts of said pair of attachment faces are positioned closer to said eccentric weight side than a center of gravity of said vibration motor itself” is not idiomatic and is vague and indefinite. In claims 32 and 38, “thickness direction” is not idiomatic and it is further not clear how the “legs” of the attaching means relates to the

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“attaching faces” of claims 29 and 35, respectively. Similarly, in claim 40 it is not clear if the “attachment faces” correspond to the “attachment means” comprising “attachment rails” of claim 35 and, if so, what the “faces” of the “rails” means.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 29, 34-35 and 40 are rejected under 35 U.S.C. 102(a/e) as being anticipated by Sei et al. (US 4,786,889). Sei teaches a vibration motor comprised of a motor body 3 (Fig.1), a motor shaft 4 projecting from the motor body (Fig.2), an eccentric weight 5 attached to the motor shaft 4 (Fig.1), and an attaching means for supporting said motor body 3 in a horizontal prone posture at one surface of a board (base/shield case) 20/22 (Fig.1), wherein the attaching means has a pair of attachment faces (shock absorbers) 8 straddling said motor shaft 4 and extending in parallel with the same at the two sides of a motor case 3 (Fig.1; c.4:35-37&48-53) and a plane including said pair of attachment faces 8 intersects with a circular orbit of the outermost point of the eccentric weight 5 at two points (i.e., a plane passing through shock absorbers 8 inherently intersects with a circular orbit of the outermost point of eccentric 5 at two points on the plane

since the eccentric 5 including its outermost point rotates through the plane, perpendicularly to it, as seen in Figs.1&2, and thus intersects with the plane at two points).

Regarding claim 34, the holder 26 is part of board 20/22 and forms an “open space” (Fig.1) wherein a pair of attachment faces 8 of said vibration motor is affixed to one surface of said board 20/22 at the sides of said open space (i.e., in grooves, not numbered, on either side of the holder 26; Fig.1), and said vibration motor is mounted with at least said motor body in a state sunken in said open space (Figs.1&2).

Regarding claim 35, the attachment faces (shock absorbers) 8 are shaped such that they can be considered “rails” (Fig.1).

Regarding claim 40, the “faces” of the “rails” 8 can be considered affixed to board 20/22.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 30 and 36, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sei et al. In Fig.1, Sei does not specify that the pair of attachment faces 8 are positioned closer to the eccentric weight 5 than to a center of gravity of said vibration motor. However, merely repositioning the faces 8 would have been obvious since it has been held that shifting location of parts involves routine skill. In re Japikse, 86 USPQ 70.

Allowable Subject Matter

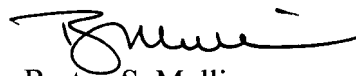
14. Claims 31-33 and 37-39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Burton S. Mullins whose telephone number is 571-272-2029.

The examiner can normally be reached on Monday-Friday, 9 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.



Burton S. Mullins
Primary Examiner
Art Unit 2834

02 May 2007
bsm